IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE CIVIL JURISDICTION

WRIT PETITON NO.1482 OF 2001

1. The Superintendent, Central Hospital, Ulhasnagar-3, Ulhasnagar, Dist.Thana

2. The State of Maharashtra .. Petitioners

v/s.

Anant Ganpat Bhosale B/496, Lal Chakki, Savarkar Marg, Ulhasnagar-4, Dist.Thana. .. Respondent

Mr.A.H.Palekar, Assistant Government Pleader for the petitioners.

Mr.M.V.Limaye for the respondent.

CORAM : SMT.NISHITA MHATRE, J.

DATED : 26th September, 2005

ORAL JUDGMENT

The petitioners challenge the order of the Industrial Court passed in Complaint (ULP) No.499 of 1989. The affidavit filed by Shri Anant G. Bhosale dated 26th September, 2005 is taken on record.

2. The respondent who was the complainant in the complaint (ULP) No. 499 OF 1989 had alleged that the petitioner had committed an unfair labour practice under items 5,6,9 and 10 of schedule IV of the MRTU & PULP Act. He contended that he was appointed as a workman initially on 15th February, 1986. He continued in service till September, 1988 on a monthly salary of Rs.1350/-. According to the respondent, he had completed 240 days in service

but the petitioner had denied his right of permanency by giving him artificial breaks in service after every 29 days. In their written statement, the petitioners have contended that the respondent was appointed in a leave vacancy as a stop-gap arrangement for a stipulated period. The petitioners denied having given artificial breaks to the respondent. The petitioners also denied that the respondent had completed 240 days in service. The petitioners did not lead any evidence in rebuttal, after the respondent deposed before the Court. The Industrial Court came to the conclusion that the respondent was not able to prove that he was in continuous service from 15th February, 1986. The Industrial Court also concluded that the respondent could not claim to be a permanent employee on the basis that he had completed 240 days in service in a calendar year. It was held that the respondent was unable to show that his services were illegally terminated in May, 1988. However, the Industrial Court concluded that the petitioners had committed unfair labour practice under item 9 of schedule IV since they have not maintained the seniority list as required under standing order 4(D) framed under the Industrial Employment Standing Orders Act. The Industrial Court, therefore, directed the petitioners to maintain such a list in accordance with the provisions of Standing Order 4(D) of the Industrial Employment Standing Orders act. A further direction was issued that whenever permanent posts are created or permanent vacancies

arise due to retirement etc., the respondent should be appointed in the regular employment if found suitable and after fulfilling the necessary requirement. It is this order which has been impugned in the present petition.

3. The Model Standing Orders applicable for the workman doing manual or technical work would be applicable to the services to the employees employed in the Central Hospital, Ulhasnagar. The respondent was working as a workman and therefore, standing order 4(D) would be applicable to him.

4. Admittedly, the petitioner has not maintained the waiting list as required under this standing order. The object of maintaining such a list is to ensure that whenever vacancies arise in the establishment, the persons included in the waiting list should be given preference over the others, after taking into consideration the nature of work done by them and their qualifications as also the aggregate service in the establishment. In fact, there is a specific bar for appointment of anybody else other than the persons maintained on the waiting list as Badli or temporary workmen.

5. Therefore, the directions issued by the Industrial Court cannot be faulted. There is no

need to interfere with the order of the Industrial Court qua the respondent, the complainant in ULP No.499 of 1989. Petition rejected.

(SMT.NISHITA MHATRE, J.)